

REMARKS

The application has been reviewed in light of the outstanding Advisory Action and Final Office Action. Claims 16-34 are now pending with claim 16 being independent. Claims 1-15 have been canceled without prejudice and/or disclaimer of subject matter.

Allowable Claims

Applicants wish to thank the Examiner for the indication in the Advisory Action (see part 7) that claims 16-34 would be allowable if the Applicants' previously submitted Response was submitted with an RCE. To that end, claims 16-34 remain unchanged in the present response and claims 1-15 have been canceled.

Rejection of Claims 1-34 Under U.S.C. § 102

Claims 1-34 were rejected under § 102 as reciting subject matter allegedly anticipated by U.S. patent no. 6,567,450 (Myers et al.) Since Applicants have canceled claims 1-15, this rejection is now considered moot for claims 1-15. With regard to claims 16-34, these claims have not been amended in the present response and Applicant again relies on the distinction of the invention of claim 16 argued in Applicants' October 16, 2003 response. Since Applicants have now canceled claims 1-15, Applicants submit that the subject application is now in condition for allowance. For the Examiner's convenience, however, Applicants have included the patentability argument from the October 16, 2003 Response as it relates to independent claim 16 (and its dependent progeny).

The Invention

Independent claim 16 is directed to a gas laser comprising a tube having a first end wall at one end and a second end wall at the other end. The tube defines a cavity for containing a laser gas and the first end wall includes a port. The gas laser also includes an electrode system disposed within the tube for generating a laser beam having an optical axis extending longitudinally through the tube and passing through the port and a mounting structure mounted on the first end wall of the tube. The mounting structure includes an optical element receiving surface and an aperture extending through the receiving surface. The aperture is disposed transverse to the optical axis and is aligned with the port and the optical axis so that the optical axis passes through the aperture. The gas laser further includes a unitary optical element having a peripheral edge, where the peripheral edge is substantially planar with respect to a first direction substantially perpendicular to the peripheral edge, and a unitary optical holder comprising a tubular gripping portion and a tubular extraction portion connected at one end to the tubular gripping portion and having a diameter less than the tubular gripping portion. The tubular gripping portion engaging the peripheral edge of the optical element to retain the optical element within the optical holder. The gas laser further includes a retainer having an interior surface engaging an exterior surface of the tubular extraction portion of the optical holder so as to be slideable along the exterior surface of the tubular extraction portion in a second direction substantially perpendicular to the first direction. The retainer is engageable with the mounting structure such that the optical element is positioned against the optical element receiving surface

to form a gas tight seal therebetween. Moreover, the optical element is disposed transverse to the optical axis and the optical axis impinges on the optical element.

The Cited Prior Art

As understood by Applicants, Myers et al. discloses a two chamber, high rep rate gas discharge laser system which includes an etalon assembly 184. The etalon includes a top plate 80 having a flange 81 and a lower plate 82, both plates being comprised of premium grade fused silica. An etalon 79 is held in place in an aluminum housing 84 only by gravity and three low force springs 86 pressing the flange against three pads positioned on 120 degree centers under the bottom edge of flange 81 at the radial location indicated by leader 85. A clearance of only 0.004 inch along the top edge of flange 81 at 87 assures that the etalon will remain approximately in its proper position. Other optical components of etalon assembly 184 include diffuser 88, window 89 and focusing lens 90 having a focal length of 458.4 mm.

Analysis

In order for a relied upon reference to be used as an anticipating reference in a rejection under §102, the reference must disclose each and every feature of the claim. In that regard, Applicants respectfully submit that Myers et al. fails to at least disclose a unitary optical holder comprising a tubular gripping portion and a tubular extraction portion. Specifically, in the Action, the §102 rejection is made by relying on corresponding the claimed tubular extracting portion of the unitary optical holder recited in claim 1 as being the equivalent to item no. 91A, numbered by the Examiner in Fig. 14E.

Item 91A, however, appears to Applicants to disclose an empty space. Applicants could find nothing in the disclosure of Myers et al. that would in any way make this empty space be the equivalent to any member, item, device or apparatus much less the tubular extraction portion of Applicants' recited unitary optical holder. Applicants' tubular extraction portion is not an empty space, but rather it is an item that may be grasped and rotated so that the optical element gripped by the gripping portion may also be rotated (see specification, page 14, lines 16-18; see also item no. 419, Fig. 4 and specification page 12, line 34, through page 13, line 4).

The Advisory Action alleges that the prior art teaches an optical holder and that the tubular extraction portion of Myers, et al. is not an empty space, but an item that may be grasped and rotated. Applicant respectfully disagrees. The Action fails to convince Applicants that item No. 91A of Fig. 14E (pointed art by Examiner) is anything but an empty space. If the Examiner is referring to reference no. 79 being the equivalent to Applicants recited optical gripping portion, then Applicant also respectfully submits that this element is not one which may be gripped and rotated (see Myers, et al., claim 26, lines 38-67) as in the present invention.

Since the remainder of the prior art of record fails to at least disclose, teach or suggest the deficiencies of Myers et al., as to independent claim 16, this claims is patentable over the cited art. Furthermore, since the remainder of the claims are dependent upon claim 16, they necessarily incorporate by reference all the features of their respective base independent claims. Thus, the dependent claims are patentable over the prior art for at least the same reasons. Since each of the dependent claims also recited patentable subject matter in their own respective right, separate consideration of the patentability of each of the dependent claims is also respectfully requested.

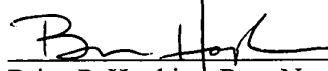
CONCLUSION

In view of the foregoing remarks, and the Examiner's comment with regard to part 7 of the Advisory Action dated November 19, 2003, Applicants submit that all issues have been resolved as to claims 16-34. Accordingly, Applicants respectfully request favorable reconsideration and early passage to issue of the present application. **Applicants respectfully request that should the Examiner have additional concerns or reasons for not issuing a Notice of Allowance, that the Examiner contact Applicant's undersigned attorney to discuss any remaining concerns.**

No fees are believed due in the present response except for the fee for extending the time period for the response. In the event that it is determined that fees are due, however, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0311, referencing the attorney document number of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 935-3000. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



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